

REMARKS

The claims have been amended to place the application in better condition for allowance or appeal. In particular, claims 3 and 11 have been amended to recite the additional limitation that a polypeptide comprising an amino acid sequence at least 90% identical to the amino acid sequence of SEQ ID NO:1 have cyclic nucleotide phosphodiesterase activity (claim 3), or that a polynucleotide comprising a polynucleotide sequence at least 90% identical to the polynucleotide sequence of SEQ ID NO:2 encode a polypeptide having cyclic nucleotide phosphodiesterase activity (claim 11). Support for this amendment is found in the specification, for example, at page 52, lines 3-15, which describes an assay for measuring cyclic nucleotide phosphodiesterase activity. No new matter is added by this amendment, and entry of the amendment is requested.

35 U.S.C. § 112, First Paragraph, Rejection of Claims 3, 6-8 and 11

The Examiner has maintained the rejection of claims 3, 6-8 and 11 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement, for the reasons of record in the paper mailed 8/29/03.

The Examiner stated that applicants example citing the Written Description Guidelines of 3/1/00 associates a function to the 95% variant in the example. Applicant has not associated a function to his variant.

Applicants Response

Applicant have now amended the claims to cite a specific function to the variant polypeptides encoded by the claimed polynucleotides based on the identification of the polypeptide of SEQ ID NO:1 as a cyclic nucleotide phosphodiesterase. Applicants therefore submit that claims, as amended, are fully described in accordance with 35 U.S.C. § 112, first paragraph and withdrawal of the rejection of claims 3, 6-8 and 11 is requested.

Allowable Subject Matter

The Examiner has objected to claims 52 and 53 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants Response

Applicants submit that based on the amendments to claims 3 and 11, the base claims upon which claims 52 and 53 depend (claims 3 and 11), and intervening claims (claim 8), are

allowable and withdrawal of the objection is therefore requested.

CONCLUSION

In light of the above amendments and remarks, Applicants submit that the present application is fully in condition for allowance, and request that the Examiner withdraw the outstanding objections/rejections. Early notice to that effect is earnestly solicited. Applicants further request that, upon allowance of claims 11 and 53, claims 13-15 and 20-21 be rejoined and examined as process claims that depend from and are of the same scope as product claims 11 and 53 in accordance with *In re Ochiai* and the MPEP § 821.04.

If the Examiner contemplates other action, or if a telephone conference would expedite allowance of the claims, Applicants invite the Examiner to contact the undersigned at the number listed below.

Applicants believe that no fee is due with this communication. However, if the USPTO determines that a fee is due, the Commissioner is hereby authorized to charge Deposit Account No. **09-0108**.

Respectfully submitted,

INCYTE CORPORATION

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